THE HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.9380 of 2006

Date: 23rd October, 2006

Between :-

Md.Yousuf Ali .. Petitioner

And

The District Level Committee rep. by its Chairman, Nalgonda & 2 others .. Respondents

THE HON'BLE SRI JUSTICE P.S. NARAYANA

Writ Petition No.9380 of 2006

ORDER:-

1. This Court issued *rule nisi* on 28-4-2006.

2. At the request of the Counsel representing the parties, the Writ Petition is being disposed of finally.

3. The Writ Petition is filed for a Writ of Mandamus declaring the action of the respondents in not considering the representation dt.18-2-2006 for granting permission to lift the sand from his patta lands in Sy.Nos.722, 723, 724, 725, 726, 734, 735, 736, 737 and 739 over an extent of Acs.8.09 of Kanagallu village and Mandal of Nalgonda District as arbitrary, illegal, unjust and violative of principles of natural justice and consequently direct the respondents to consider the representation and permit the petitioner to remove the sand in the petitioner's patta lands in Sy.Nos.722, 723, 724, 725, 726, 734, 735, 736, 737 and 739 over an extent of Acs.8.09 of Kanagallu village and Mandal of Nalgonda District and to pass such other orders.

4. It is stated that the petitioner is an agriculturist

owning an extent of patta land measuring Ac.8.09 in Sy.Nos.722, 723, 724, 725, 726, 734, 735, 736, 737 and 739 of Kanagallu village and Mandal of Nalgonda District and due to flow of river and rains, sand has accumulated on the land and making it uncultivable. It is also stated that the petitioner made a representation to the District Collector, Nalgonda, and also to the Chairman, Zilla Parishad, Nalgonda and orally also requested for permission for removal of the accumulated sand on his patta land but they did not give permission, due to which the petitioner cannot cultivate the lands. It is further stated that the petitioner again submitted a representation to the District Collector as well as to the District Level Committee on 18-2-2006 requesting to consider his case for granting permission for removal and transportation of sand. It is also stated that previously also when sand had accumulated in his patta land, the authorities had given permission No.B/4558/98, dated 26-12-1998. It is also further stated that inspite of several representations, the authorities have not issued permission to the petitioner to

lift the sand. It is also stated that these patta lands are agricultural in nature but due to accumulation of sand, agriculture cannot be taken up and they have become uncultivable and if the accumulated sand is removed, it will be illegal as sand being a minor mineral and cannot be removed without obtaining permission from the concerned authorities. It is further stated that in pursuant to amendment to rule vide G.O.Ms.No.1, Industries & Commerce (M.I.) Department, dated 1-1-2001, it is only the first and third respondents who are competent to grant permission. It is also further stated that the petitioner as an agriculturist is eking out his livelihood by cultivating his land and this is his only source of income and the petitioner is suffering loss and hardship in view of the non-granting of permission by the authorities to lift the sand from his own lands and removal of sand will not cause any depletion of water level nor damage to the bore-wells. It is stated that unless and until sand is removed, the petitioner cannot cultivate the land and the land is a patta land, the authorities cannot auction. It is also further

stated that in the similar circumstances, the authorities had granted permission to others and the action of the respondents in non-granting of permission to the petitioner is arbitrary, illegal, unjust and violative of principles of natural justice. In such circumstances, the petitioner approached this Court for appropriate reliefs.

5. It is stated that the representation of the petitioner dated 18-2-2006 is pending with the 2nd respondent. In view of the facts and circumstances, this Court is of the considered opinion that the Writ Petition be disposed of directing the 2nd respondent to dispose of the representation of the petitioner dated 18-2-2006 in accordance with law within a period of three months from the date of receipt of this order.

6. The Writ Petition is accordingly disposed of. No order as to costs.

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Justice P.S.Narayana

23rd October, 2006

smr